

# UNOFFICIAL COPY

**THIS DOCUMENT WAS PREPARED  
BY AND AFTER RECORDING  
SHOULD BE RETURNED TO:**

Jay R. Goldberg  
Field and Goldberg, LLC  
10 South LaSalle Street  
Suite 2910  
Chicago, IL 60603



Doc#: 0731033022 Fee: \$44.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 11/06/2007 09:22 AM Pg: 1 of 11

**ADDRESS OF PROPERTY:**  
1600 Orrington Avenue  
Evanston, IL 60201

**PERMANENT INDEX NO.:**  
11-18-305-003-0000

## SIXTH LOAN MODIFICATION AGREEMENT

THIS SIXTH LOAN MODIFICATION AGREEMENT (the "Agreement") is made and entered into as of the 5<sup>th</sup> day of October, 2007 by and among **MB FINANCIAL BANK, N.A.** ("Lender"), **FOUNTAIN SQUARE BLDG, LLC**, an Illinois limited liability company ("Borrower"), and **THEODORE MAVRAKIS** and **CAROL MAVRAKIS** (individually and collectively referred to herein as "Guarantors").

### WITNESSETH:

WHEREAS, Borrower is the owner of certain real estate (the "Premises") commonly known as 1600 Orrington Avenue which is located in the City of Evanston, County of Cook, State of Illinois and more particularly described on Exhibit A attached hereto and made a part hereof; and

WHEREAS, Lender has heretofore made a mortgage loan (the "Loan") to Borrower in the stated principal sum of Three Million Nine Hundred Twenty-Five Thousand Dollars (\$3,925,000.00); and

WHEREAS, the Loan is evidenced and secured by the following documents in favor of Lender (hereinafter defined and all other documents evidencing, securing or otherwise governing the Loan are collectively referred to as the "Loan Documents") each of which is dated as of December 22, 2003 unless otherwise stated:

- (a) Note (the "Note") made by Borrower in the stated principal sum of Three Million Nine Hundred Twenty-Five Thousand Dollars (\$3,925,000.00);
- (b) Guaranty made by the Guarantors to Lender;

**Box 400-CTCC**

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(c) Mortgage (herein called the "Mortgage") made by Borrower to Lender encumbering the Premises and the improvements thereon and all other property, assets and collateral therein described, which Mortgage was recorded in the Office of the Recorder of Deeds of Cook County, Illinois (herein called the "Recorder's Office") as Document No. 0402133298;

(d) Assignment of Rents and Leases made by Borrower to Lender recorded in the Recorder's Office as Document No. 0402133299;

(e) Undated Uniform Commercial Code Financing Statements made by Borrower, as debtor, to Lender, as secured party, which were recorded in the Recorder's Office as Document No. 04021333000 and filed with the Illinois Secretary of State's Office as Document No. 008148813;

(f) Security Agreement made by Borrower, as debtor, to Lender, as secured party;

(g) Environmental Indemnity Agreement made by Borrower and Guarantors, as Indemnitor, to Lender;

(h) Loan Modification Agreement dated January 5, 2005 by and between Borrower, Guarantors and Lender, which was recorded in the Recorder's Office as Document No. 0503304134;

(i) Second Loan Modification Agreement dated August 15, 2005 by and between Borrower, Guarantors and Lender, which was recorded in the Recorder's Office as Document No. 0605310100;

(j) Third Loan Modification Agreement dated January 5, 2006 by and between Borrower, Guarantors and Lender, which was recorded in the Recorder's Office as Document No. 0607244021;

(k) Fourth Loan Modification Agreement dated January 5, 2007 by and between Borrower, Guarantors and Lender, which was recorded in the Recorder's Office as Document No. 0704542219; and

(l) Fifth Loan Modification Agreement dated May 5, 2007 by and between Borrower, Guarantors and Lender, which was recorded in the Recorder's Office as Document No. 0718442028; and

WHEREAS, Lender and Borrower have agreed to certain modifications to the Loan Documents; and

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WHEREAS, the agreements of the parties are set forth herein and limited to this Agreement.

## AGREEMENT

NOW, THEREFORE, for valuable considerations, the receipt and sufficiency of which are hereby acknowledged, it is agreed as follows:

1. Preambles. The preambles set forth immediately above are incorporated herein by this reference as fully and with the same force and effect as if each and every term, provision and condition thereof was specifically recited herein at length.

2. Definitions. All terms herein not otherwise defined shall have the same meanings ascribed to such terms in the Note, Mortgage and in the other Loan Documents.

3. Increase in Loan Amount. Notwithstanding anything to the contrary contained in the Loan Documents, the stated principal amount of the Note is hereby increased to Four Million Three Hundred Seven Thousand Dollars (\$4,307,000.00) (the "Loan Amount"). Any reference to the Loan, the Loan Amount or to the Note in any of the Loan Documents shall be a reference to the Loan, the Loan Amount and/or the Note in the stated principal amount of Four Million Three Hundred Seven Thousand Dollars (\$4,307,000.00).

4. Payment of Fee. For and as additional consideration of Lender agreeing to enter into this Agreement, Borrower shall pay Lender a fee of Eight Thousand Five Hundred Dollars (\$8,500.00).

5. Amendment to Note. In addition to any other modifications contained in this Agreement, the Note is hereby amended as follows:

(a) The maturity date of the Loan shall be October 5, 2010.

(b) Subsection 2.F is deleted in its entirety and is hereby replaced with the following:

F. "Regular Rate" shall mean interest payable at the rate equal to Six and Eighty-One Hundredths Percent (6.81%) per annum.

(c) The following subsection G is hereby added to Section 2 of the Note:

G. "Prepayment Fee" shall be equal to the amount, if any, by which the present value on the Prepayment Date of the Prepaid Payments exceeds the sum of the Prepaid Principal Payments plus the Prepaid Interest. Such present value shall be calculated by

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discounting to the Prepayment Date the Prepaid Payments at the per annum Treasury Offered Rate relating to the Weighted Average Maturity of Prepaid Principal Payments on the basis of a year consisting of three hundred sixty-five (365) or three hundred sixty-six (366) days, as applicable, for actual days elapsed.

a. "Prepayment Date" means the date on which a prepayment is to be made.

b. "Prepaid Interest" means the interest or portion thereof, if any, which has accrued on the Indebtedness on the Prepayment Date but which is not scheduled pursuant to this Note to be due and paid until after the Prepayment Date.

c. "Prepaid Payments" means the Prepaid Principal Payments plus the interest payments, whether installments or otherwise scheduled pursuant to this Note to be due and paid after the Prepayment Date but which shall not accrue by reason of the prepayment of said Prepaid Principal Payments.

d. "Prepaid Principal Payments" means the principal payments, whether installments or otherwise, scheduled pursuant to this Note to be due and paid after the Prepayment Date but which are to be prepaid on the Prepayment Date. In the event of a partial prepayment, such scheduled principal payments shall be deemed prepaid in inverse order of maturity.

e. "Treasury Offered Rate" for the Weighted Average Maturity means the per annum offered rate (as adjusted pursuant to the terms hereof) determined by Lender by reference to the then most recently auctioned U.S. Government Treasury Securities which correspond in maturity to the Weighted Average Maturity, or as interpolated between or among the most recently auctioned U.S. Government Treasury Securities closest in maturities occurring before and after the Weighted Average Maturity, as published on page 5 of the Telerate Screen (or any successor to such page) as of 10:00 a.m., Chicago time, on the Prepayment Date (or a date as near as practicable thereto). If such rate cannot be determined by Lender on such date by reference to the Telerate Screen, such rate shall be determined by Lender on the basis of the arithmetic mean of the offered rates quoted by the Reference Dealers as of 10:00 a.m., Chicago time, on such date for U.S. Government Treasury Securities with maturities

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determined as aforesaid. If such rate cannot be determined either by reference to the Telerate Screen or on the basis of the offered rates of the Reference Dealers, such rate shall be determined by Lender in good faith from such sources as shall then be available for the purpose. Such rate shall be adjusted to provide for a yield equal to the yield on an instrument paying interest on the same dates as the interest payment dates scheduled pursuant to this Note (or as near as practicable thereto).

f. "Reference Dealers" means two U.S. Government Treasury Securities dealers in New York or Chicago of recognized standing selected by Lender.

g. "Weighted Average Maturity" of Prepaid Principal Payments means the period of time (expressed as a number of days) from the Prepayment Date which is equal to the quotient of:

i. the sum of the products of:

(a) the amount of each Prepaid Principal Payment, and

(b) the number of days between the Prepayment Date and the scheduled date of each such Prepaid Principal Payment,

divided by:

ii. the aggregate amount of Prepaid Principal Payments.

(d) Section 6 is deleted in its entirety and is hereby replaced with the following:

6. Payments. Borrower shall make monthly payments of principal and interest in the amount of Thirty Thousand One Hundred Ninety-Four Dollars and Forty Cents (\$30,194.40) on the fifth (5<sup>th</sup>) day of each month, with the first such payment due on November 5, 2007.

Borrower shall pay all accrued interest, the unpaid principal balance of this Note and any other sums due with respect to the Loan on the Maturity Date.

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THIS IS A BALLOON NOTE. THE PAYMENT OF PRINCIPAL IS CALCULATED ON THE BASIS OF A TWENTY-FIVE (25) YEAR AMORTIZATION SCHEDULE, WITH THE UNPAID BALANCE DUE ON THE MATURITY DATE, AT WHICH TIME A SUBSTANTIAL AMOUNT OF PRINCIPAL SHALL REMAIN OUTSTANDING AND BE DUE.

(e) Section 7 is deleted in its entirety and is hereby replaced with the following:

7. Prepayment Privilege. The Borrower may prepay on any installment payment date the unpaid principal balance of this Note, in whole or in part, provided that (i) Borrower gives Lender not less than ten (10) business days prior written notice of its intention to do so; and (ii) Borrower pays, at the time of such prepayment and in addition thereto, all accrued interest to the date of such prepayment, all other unpaid indebtedness then due and a Prepayment Fee as defined and calculated above. Such Prepayment Fee shall be due and payable in all events, including but not limited to prepayment following acceleration of maturity by the Lender occasioned by a default under the Loan Documents.

6. Disbursement of Funds. Upon the parties' execution of this Agreement and receipt by Lender of the title insurance endorsement required in Paragraph 10 below, Lender shall disburse any portions of the Loan not yet disbursed up to but in no event exceeding the Loan Amount. Upon disbursement of any amount(s) of the Loan, all amount(s) so disbursed shall be added to the then-current balance of the Loan.

7. Amendment to Mortgage. The Mortgage is modified to secure the Note as hereby modified and is deemed amended to conform to the terms and provisions hereof and the amendments and modifications to the Loan and Loan Documents effected hereby.

8. Amendment to Guaranty. The Guaranty is modified to secure the Note as hereby modified and is deemed amended to conform to the terms and provisions hereof and the amendments and modifications to the Loan and Loan Documents effected hereby.

9. Continued Priority. In the event that, by virtue of any of the terms, conditions and provisions of this Agreement, a lien or other property interest in the Premises otherwise junior in priority to the liens created by the Loan Documents shall gain superiority over the liens created by the Loan Documents, this Agreement shall, nunc pro tunc, be null and void without further action of the parties hereto to the fullest extent as if it had never been executed, to the end that the priority of the Loan Documents shall not be impaired.



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10. Title Insurance. Concurrent with the execution and delivery hereof by Borrower, Borrower agrees to provide Lender with an endorsement to its mortgagee's policy of title insurance ("Title Policy"), which endorsement shall be acceptable to Lender and shall guarantee as of the date hereof that:

- (a) there are no objections to title except (a) the objections to title other than real estate taxes reflected on the Title Policy, and (b) general real estate taxes for the year 2006 (2<sup>nd</sup> installment) and subsequent years;
- (b) reflects the recording of this Agreement;
- (c) re-dates the effective date of the Title Policy to the date of recording of this Agreement;
- (d) increases the amount of coverage to Four Million Three Hundred Seven Thousand Dollars (\$4,307,000.00); and
- (e) together with other endorsements required by Lender including an endorsement insuring over all mechanic lien claims of record, if any.

11. Lender Expenses. Borrower agrees to pay all costs, fees and expenses (including but not limited to legal fees) incurred by Lender in connection with the preparation of this Agreement and the implementation of the additional disbursements contemplated hereunder. Such of the foregoing as are incurred prior to the execution and delivery of this Agreement shall be paid concurrent with such execution and delivery. All other fees, costs and expenses shall be paid within five (5) business days after notice from Lender of the amount due and the reason therefor.

12. Non-Waiver. In the event Lender shall at any time or from time to time disburse portions of the Loan without Borrower first satisfying all conditions precedent set forth herein or in the Loan Documents, Lender shall not thereby be deemed to have waived its right to require such satisfaction of the same or other condition as a condition precedent to its obligations to make further disbursement of the Loan.

13. Ratification. The Loan Documents are hereby ratified, confirmed and approved and are and shall remain in full force and effect pursuant to the terms and conditions set forth therein, except to the extent otherwise expressly modified hereby. Each of the Loan Documents is hereby modified and amended so that all reference to such documents shall be deemed to be a reference to the Loan Documents as hereby modified and amended.

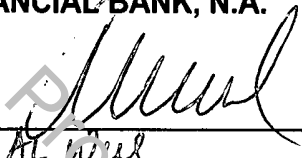
14. Joinder of Guarantors. Notwithstanding anything to the contrary contained herein Guarantors have entered into this Agreement for the limited purpose of ratifying and confirming their obligations under the Guaranty, as amended hereby, and to acknowledge

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that the Guaranty and the other Loan Documents, as amended hereby remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the day, month and year first written above.

**MB FINANCIAL BANK, N.A.**

By:   
Name: AL WEL  
Title: SVP

  
**THEODORE MAVRAKIS**

**FOUNTAIN SQUARE BLDG, LLC, an Illinois limited liability company**

By:   
Carol Mavrakis, Managing Member

  
**CAROL MAVRAKIS**

Property of Cook County Clerk's Office

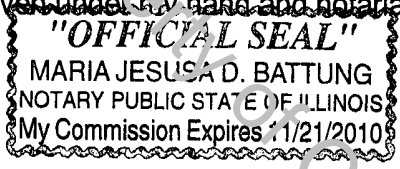


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STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF COOK     )

I, the undersigned, a Notary Public in and for the county and state aforesaid, do hereby certify that Al Weil, the SVP of **MB Financial Bank, N.A.**, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me in person and acknowledged that he/she signed, sealed and delivered the said instrument as his/her own free and voluntary act, and as the free and voluntary act of **MB Financial Bank, N.A.**, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 15th day of October, 2007.

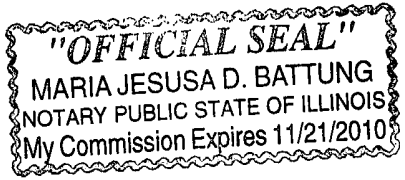


Maria Jesusa D. Battung  
Notary Public

STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF             )

I, the undersigned, a Notary Public in and for the county and state aforesaid, do hereby certify that **Carol Mavrakis**, the Managing Member of **Fountain Square Bldg, LLC**, an **Illinois limited liability company**, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me in person and acknowledged that she signed, sealed and delivered the said instrument as her own free and voluntary act, and as the free and voluntary act of **Fountain Square Bldg, LLC**, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 15th day of October, 2007.



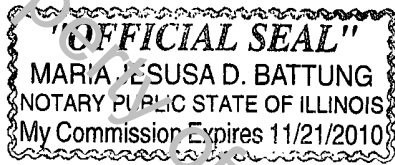
Maria Jesusa D. Battung  
Notary Public

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STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF             )

I, the undersigned, a Notary Public in and for the county and state aforesaid, do hereby certify that **Carol Mavrakis**, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me in person and acknowledged that she signed, sealed and delivered the said instrument as her own free and voluntary for the uses and purposes therein set forth.

Given under my hand and notarial seal this 15<sup>th</sup> day of October, 2007.

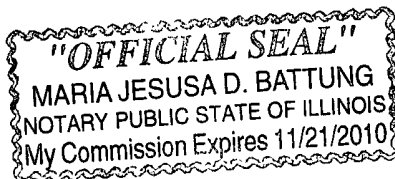


*Maria Jesusa D. Battung*  
\_\_\_\_\_  
Notary Public

STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF             )

I, the undersigned, a Notary Public in and for the county and state aforesaid, do hereby certify that **Theodore Mavrakis**, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me in person and acknowledged that he signed, sealed and delivered the said instrument as his own free and voluntary act for the uses and purposes therein set forth.

Given under my hand and notarial seal this 15<sup>th</sup> day of October, 2007.



*Maria Jesusa D. Battung*  
\_\_\_\_\_  
Notary Public

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## EXHIBIT A

### Legal Description

Lots 8, 9 and 10 in the Subdivision of Block 28 in the Village of Evanston in the West ½ of Section 18, Township 41 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

**Address of Property:** 1600 Orrington Avenue  
Evanston, IL 60201

**Permanent Index No.:** 11-18-305-003-0000

Property of Cook County Clerk's Office